



The Attorney General of Texas

May 11, 1982

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Mr. David Reagan
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Open Records Decision No. 315

Re: Whether the information
in personnel files of police
officers may be withheld from
public disclosure under
sections 3(a)(2) or 3(a)(11)
of the Open Records Act

Dear Mr. Reagan:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether certain information in the personnel files of three police officers of the Midland Police Department is subject to disclosure. An attorney has requested the following information regarding two of the officers: length of time employed by the Midland Police Department; dates of any commendations or promotions; and dates of and reasons for any disciplinary action. A reporter has asked the department to confirm or deny whether a third officer recently received a three-day suspension. You suggest that all the requested information is excepted from disclosure by sections 3(a)(2) and 3(a)(11).

Section 3(a)(2) excepts "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." As we said in Open Records Decision No. 298 (1981), this section may be invoked only when the information reveals "intimate details of a highly personal nature." See also, Open Records Decision Nos. 269, 260 (1981). None of the information requested here can reasonably be so characterized. We conclude that it is not excepted from disclosure by section 3(a)(2).

Section 3(a)(11) excepts:

inter-agency or intra-agency memorandums or
letters which would not be available by law to a
party other than one in litigation with the
agency.

We have frequently said that section 3(a)(11) permits the withholding of advice, opinions and recommendations contained in inter-agency or intra-agency memoranda. Open Records Decision No. 308 (1982); 273

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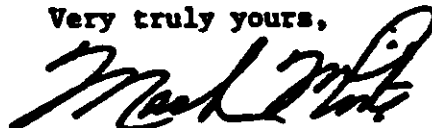
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(1981); 239 (1980). Clearly, the length of time an officer has been employed, as well as the dates of any commendations or promotions, may not properly be deemed "advice, opinions and recommendations," and therefore, is not excepted by section 3(a)(11).

In Open Records Decision No. 106 (1975), this office considered an investigation report regarding a complaint of misconduct on the part of an officer of the Department of Public Safety. It was held that, although the report was itself excepted by section 3(a)(11), the "final action" taken in the matter was required to be disclosed. The opinion, citing section 6(12) of the Open Records Act, which specifically makes public "final opinions... as well as orders, made in the adjudication of cases," said that this section is applicable to any "final action taken on matters by an agency through its regular administrative processes, regardless of their formality." On the basis of Open Records Decision No. 106 (1975) and subsequent decisions construing section 3(a)(11), we believe that the basic factual information relevant to this disciplinary action constitutes public information, including the fact that disciplinary action has been taken, the dates of such action, the punishment assessed, all factual details about the incident which gave rise to the disciplinary action, and any written findings regarding the reasons for the action. Any opinions furnished or recommendations made in the course of the investigation may be withheld under section 3(a)(11). See Open Records Decision No. 308 (1982). As to the information requested here, it is our decision that none of it is excepted from disclosure by section 3(a)(11).

Very truly yours,



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